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NEXTDOOR.COM, INC. and Counterdefendant  
9 PRAKASH JANAKIRAMAN

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN FRANCISCO DIVISION

13 NEXTDOOR.COM, INC., a Delaware  
corporation,

14 Plaintiff,

15 v.

16 RAJ ABHYANKER, an individual,

17 Defendant.

18 RAJ ABHYANKER, an individual,

19 Counterclaimant,

20 v.

21 NEXTDOOR.COM, INC., a Delaware  
corporation; PRAKASH JANAKIRAMAN, an  
individual; BENCHMARK CAPITAL  
PARTNERS, L.P., a Delaware limited  
partnership; BENCHMARK CAPITAL  
MANAGEMENT CO. LLC, a Delaware limited  
liability company; SANDEEP SOOD, an  
individual; MONSOON ENTERPRISES, INC., a  
California corporation, and DOES 1-50,  
inclusive,

22 Counterdefendants.

23 CASE NO. 3:12-cv-05667-EMC

24 JOINT STATUS REPORT

25 Date: February 20, 2014

26 Time: 1:30 p.m.

27 Judge: Honorable Edward M. Chen

1 Pursuant to the Court's Minute Order following the December 12, 2013 Case  
 2 Management Conference (Dkt. No. 137), the undersigned parties respectfully submit the  
 3 following Joint Status Report to apprise the Court of developments since the prior CMC.

4 **1. Facts**

5 For the Court's convenience, this section not only includes recent developments but  
 6 includes a truncated version of the background of the case.

7 **Plaintiff and Counterdefendants' Statement of Facts.** Plaintiff Nextdoor.com brought this  
 8 action to settle its ownership interest in and right to use the name NEXTDOOR.COM, and to  
 9 recover for Defendant Abhyanker's infringement and cybersquatting in using that name and the  
 10 domain www.nextdoor.com.

11 In response, Defendant Abhyanker alleged that he founded a company called Fatdoor, Inc.  
 12 ("Fatdoor") in late 2006 to pursue a neighborhood-based social networking business. Fatdoor  
 13 operated a beta-website for this business at www.fatdoor.com for a short period of time before  
 14 shutting down and eventually being acquired by Google Inc. (after changing its name and  
 15 business model multiple times). Abhyanker further alleges that in relation to this Fatdoor  
 16 business, Abhyanker applied for trademarks for FATDOOR and FATDOOR GET TO KNOW  
 17 YOUR NEIGHBORS. Abhyanker allegedly made attempts to obtain the domain name  
 18 www.nextdoor.com in 2006 but was unable to do so. Fatdoor never launched any website using  
 19 the name Nextdoor, and, to Plaintiffs' and Counterdefendants' knowledge, made no public use of  
 20 the Nextdoor name in connection with any goods or services until 2012, well after Plaintiff and  
 21 Counterdefendant Nextdoor.com commenced using the NEXTDOOR mark in connection with its  
 22 business.

23 Indeed, Nextdoor.com, along with its co-founder Counterdefendant Prakash Janakiraman  
 24 ("Janakiraman"), independently developed the concept for an online social network designed to  
 25 help neighbors connect in 2010. This network was developed based on entirely original software  
 26 code written by Nextdoor.com's engineers. In January 2011, the company obtained the domain  
 27 www.nextdoor.com to use for its website, and in February 2011, Nextdoor.com applied for a  
 28 trademark in the NEXTDOOR mark. In October 2011, Nextdoor.com publicly launched its

1 website and social network bearing that name. Nextdoor.com and Janakiraman had no  
2 knowledge of Abhyanker's alleged previous plans for a social network to be called Nextdoor or  
3 his previous attempts to obtain the www.nextdoor.com domain.

4 In his Second Amended Counterclaim (Dkt. No. 132, Ex. A "SAC"), Abhyanker alleges  
5 that he, independently of his company Fatdoor, developed and owns two neighborhood-based  
6 social networking concepts to be called LegalForce and Nextdoor. Abhyanker claims that his  
7 LegalForce/Nextdoor concepts are entirely "separate and distinct," SAC ¶ 127, from the Fatdoor  
8 concept, which he now recasts as a "wiki based commenting tool," *id.* ¶ 114 (although he  
9 contradictorily claimed in his state court action in Santa Clara Superior Court, Case No. 11-cv-  
10 212924, that Fatdoor embodied this social networking concept that he now calls  
11 LegalForce/Nextdoor). Abhyanker alleges that he developed and disclosed trade secrets related  
12 to the LegalForce/Nextdoor concept[s] to Counterdefendant Sandeep Sood while Sood was a  
13 contractor working for him in 2006 and 2007, or to Counterdefendants Benchmark Capital  
14 Partners, L.P. and Benchmark Capital Management Co. LLC (collectively, "Benchmark") in 2007  
15 in an effort to obtain funding for Fatdoor. Abhyanker contends that either or both Sood and  
16 Benchmark then wrongfully disclosed those trade secrets to Nextdoor.com and Janakiraman, and  
17 that Nextdoor.com wrongfully used those secrets in developing its business three years later. The  
18 alleged trade secrets that Abhyanker has disclosed in this action, pursuant to Court Order that he  
19 provide "additional detail regarding the trade secrets" he alleges Counterdefendants  
20 misappropriated and "how each secret was allegedly misappropriated" by Counterdefendants,  
21 (Dkt. No. 100, at 10), consist of the following: (i) "the bidding history of the Nextdoor.com  
22 domain" and (ii) "identification of the Lorelei neighborhood in Menlo Park, California as the  
23 ideal first neighborhood to use to test and launch a neighborhood social network." (Second Am.  
24 Trade Designation of Trade Secrets, Dkt. No. 135, at 2.) Counterdefendants deny that the trade  
25 secret disclosure sufficiently identifies the alleged trade secrets pursuant to Court Order, that the  
26 identified items constitute trade secrets, or that Counterdefendants wrongfully disclosed, used, or  
27 acquired the alleged trade secrets.

28 ///

1           Lacking any sound basis for his trade secret misappropriation claim, Abhyanker once  
 2 again changed strategies with his SAC, adding a claim for trademark infringement based on his  
 3 alleged prior rights in an unregistered NEXTDOOR mark. Ironically, although Abhyanker  
 4 initially claimed that the name NEXTDOOR.COM itself qualifies for trade secret status because  
 5 it was not publicly known, he now hopes to allege that he used that secret name widely in  
 6 commerce so as to achieve priority for trademark purposes. But Abhyanker's SAC did not set  
 7 forth facts plausibly indicating that he used the NEXTDOOR mark in commerce *prior to*  
 8 Nextdoor.com's use of the mark commencing in 2011. Thus, on December 12, 2013, this Court  
 9 ordered Abhyanker to "file a supplemental statement to his Counterclaims identifying *prior*  
 10 commercial use and attaching documentary exhibits." (Dkt. No. 137 (emphasis added)).

11           Facing this direct order, Abhyanker attached six exhibits (A-F) to his Supplemental  
 12 Statement Regarding Prior Trademark Use. *See* Dkt. No. 141 ("Supplemental Statement").  
 13 These exhibits were supposed to be his best documentary support for his alleged prior use in  
 14 commerce of the NEXTDOOR mark. Yet none of these exhibits supports a plausible claim of  
 15 prior use in commerce. Rather, Exhibits A and B relate to *Nextdoor.com*'s use of the  
 16 NEXTDOOR mark. Exhibits D, E and F show use of the NEXTDOOR mark in 2012 *after*  
 17 Nextdoor.com's adoption and use of the mark commencing in 2011. And Exhibit C is an alleged  
 18 mockup of a potential future service; not an example of a mark used in commerce in connection  
 19 with an existing service.

20           Abhyanker's Supplemental Statement further alleges that the document attached as  
 21 Exhibit D reflected his use in commerce of the NEXTDOOR mark "years before Nextdoor.com"  
 22 and that the "source code" for the website purportedly shown in Exhibit D "confirms the use of  
 23 the Nextdoor name in database structures originating in 2008." *See* Dkt. No. 141 at ¶ 6-7. These  
 24 allegations are patently false. Exhibit D was, both on its face, and as admitted in meet and confer  
 25 communications, actually created in 2012 or later, not 2008. And there is no evidence of use of  
 26 the NEXTDOOR name in any purported "database structures" for the website shown in  
 27 Exhibit D.

28           ///

1           On January 7, 2014 Nextdoor.com sent Abhyanker another Rule 11 letter demanding that  
 2 he correct or withdraw these false allegations (among others). In response to the Rule 11 letter,  
 3 on January 30, 2014, Abhyanker filed an “Errata to Supplemental Statement” that purported to  
 4 amend his Supplemental Statement (Dkt. No. 153) in certain respects.<sup>1</sup> Specifically, he modified  
 5 his allegation regarding the purported source code and database structures relating to Exhibit D to  
 6 remove any claim that they show use of the NEXTDOOR mark in 2008 or at any time before  
 7 Nextdoor.com’s use of the NEXTDOOR mark. Abhyanker, however, maintains his grossly  
 8 misleading allegation that Exhibit D, a document created in 2012 or later, reflects his use in  
 9 commerce of the NEXTDOOR mark prior to Nextdoor.com’s use commencing in 2011.

10           Abhyanker’s “Errata,” in response to the Rule 11 letter, also removed his allegation that  
 11 each of his Exhibit C mockups of potential websites were later made public. Instead, he now  
 12 alleges that only “some of” the Exhibit C mockups were later made public. *Id.* at ¶ 9. Abhyanker  
 13 alleges no facts about how these mockups were made public, or when, leaving no basis upon  
 14 which to infer any prior use.

15 **Defendant and Counterclaimant Abhyanker’s Statement of Facts.** Nextdoor.com,  
 16 Benchmark, and the individuals associated with them have a pattern and practice of building  
 17 companies based on stolen information. This case is one example of their common pattern and  
 18 practice. Around September 2006, Abhyanker developed the concept of a private online  
 19 neighborhood social network for inventors to be called LegalForce, and a separate spin off idea  
 20 using the same code base called Nextdoor. In connection with his LegalForce and Nextdoor  
 21 concept, Abhyanker developed and owned trade secret information, which is described in  
 22 Abhyanker’s counterclaim. Abhyanker disclosed the trade secrets to Counterdefendants Sandeep  
 23 Sood, Monsoon Enterprises, and the Benchmark entities under obligations of confidentiality.  
 24 Despite their obligations of confidentiality, Sandeep Sood, Monsoon, and Benchmark disclosed

25  
 26 <sup>1</sup> This is now the second time Abhyanker has materially altered his allegations in response to a  
 27 Rule 11 letter from Nextdoor.com. As discussed in the parties’ Third Supplemental Joint Case  
 28 Management Statement, in response to a previous Rule 11 letter, Abhyanker removed any  
 allegation regarding misappropriation of his purported source code trade secret. *See* Dkt.  
 No. 131.

1 the trade secrets to Nextdoor.com and Prakash Janakiraman. Despite knowing that the trade  
 2 secret information was improperly acquired (and encouraging the improper disclosure),  
 3 Nextdoor.com and Janakiraman publicly launched the www.nextdoor.com online neighborhood  
 4 social network that uses and was built on the trade secrets misappropriated from Abhyanker.

5 In addition to Counterdefendants' trade secret misappropriation, Mr. Abhyanker has prior  
 6 trademark rights in the NEXTDOOR and FATDOOR trademarks. Nextdoor.com's unauthorized  
 7 subsequent use of the NEXTDOOR trademark infringes Mr. Abhyanker's trademark rights.

8 **2. Pending and Anticipated Motions**

9 Nextdoor.com and Janakiraman's motion for summary judgment and/or Rule 41(b) relief  
 10 regarding Abhyanker's trade secret misappropriation claim is currently pending and set for  
 11 hearing on February 20, 2014. As explained in Nextdoor.com and Janakiraman's motion:

12 (i) Abhyanker's two remaining identified trade secrets (bidding for the domain name and  
 13 selection/use of the Lorelei neighborhood) cannot qualify as secrets under governing law; and  
 14 (ii) Abhyanker has failed comply with multiple Court orders requiring him to identify his alleged  
 15 trade secrets with particularity. Counterdefendants Sandeep Sood and Monsoon Enterprises, Inc.  
 16 joined Nextdoor.com and Janakiraman's motion for summary judgment. Mr. Abhyanker has  
 17 opposed the motion. As explained in Mr. Abhyanker's opposition: (i) his two trade secrets do  
 18 qualify as trade secrets because they were not generally known, had independent economic value,  
 19 and were the subject of reasonable efforts to maintain their secrecy; (ii) Nextdoor.com failed to  
 20 submit any declarations refuting Mr. Abhyanker's allegations of misappropriation or otherwise  
 21 explaining how the trade secrets were allegedly obtained through proper means; (iii) summary  
 22 judgment is inappropriate because Mr. Abhyanker has not been permitted to conduct any  
 23 discovery on his trade secret claim; (iv) Mr. Abhyanker's trade secret designation is more than  
 24 sufficiently particular to allow the Court and the parties to determine the appropriate scope of  
 25 discovery; and (v) at a minimum, there are disputed issues of fact that preclude summary  
 26 judgment.

27 Benchmark's motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) is also  
 28 currently pending and set for hearing on February 20, 2014, and likewise addresses the

1 deficiencies in Abhyanker's trade secret misappropriation claim. Benchmark argues that  
 2 Abhyanker's SAC should be dismissed with prejudice because (i) Abhyanker has failed to plead  
 3 facts that establish that either the bidding history or the identification of the Lorelei neighborhood  
 4 is a trade secret, as both were publicly disclosed at the time of the purported misconduct and lack  
 5 independent economic value; (ii) Abhyanker has failed to plead that he took reasonable steps to  
 6 protect the alleged trade secrets when he allegedly disclosed them to Benchmark; or that  
 7 Benchmark breached any cognizable duty of nondisclosure with respect to these items; and  
 8 (iii) Abhyanker's allegations in the SAC (even if true) do not establish a plausible claim for trade  
 9 secret misappropriation. *See* Dkt. No. 145. Mr. Abhyanker has opposed the motion. As  
 10 explained in Mr. Abhyanker's opposition: (i) Mr. Abhyanker pled facts sufficient to show that his  
 11 two trade secrets do qualify as trade secrets because they were not generally known, had  
 12 independent economic value, and were the subject of reasonable efforts to maintain their secrecy;  
 13 (ii) Mr. Abhyanker disclosed his trade secrets to Benchmark only after Benchmark agreed to  
 14 maintain the secrecy of Mr. Abhyanker's trade secrets and other confidential information;  
 15 (iii) Benchmark's promise is not subject to the statute of frauds; and (iv) Mr. Abhyanker's  
 16 pleadings satisfy the requirements set forth by the Supreme Court.

17 Beyond the pending motions, Nextdoor.com anticipates filing a motion for judgment on  
 18 the pleadings and for Rule 11 sanctions directed at Abhyanker's trademark claims based on the  
 19 NEXTDOOR mark and his continued false and frivolous claims to priority in that mark.

20 Nextdoor.com also anticipates filing a motion for summary judgment on its affirmative  
 21 claims and any remaining trademark counterclaims—including that Nextdoor.com has infringed  
 22 any rights held by Abhyanker in his purported Fatdoor marks, namely, FATDOOR and  
 23 FATDOOR GET TO KNOW YOUR NEIGHBORS. Such motion would be based, *inter alia*, on  
 24 the facts that: (i) Abhyanker does not own the Fatdoor marks and has no standing to pursue any  
 25 claims based on them; (ii) the NEXTDOOR mark is not confusingly similar to the Fatdoor marks;  
 26 and (iii) Abhyanker engaged in cybersquatting in registering and using the www.nextdoor.com  
 27 domain long after Nextdoor.com adopted and commenced using the NEXTDOOR mark in  
 28 commerce.

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ATTORNEYS AT LAW  
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1                   Defendant and Counterclaimant Abhyanker anticipates filing one or more motions for  
 2 summary judgment directed at Nextdoor.com's claims and/or Abhyanker's counterclaims.

3                   **3.      Discovery**

4                   **Discovery Served by Nextdoor.com:** At the December 12, 2013 Case Management Conference,  
 5 the Court addressed the dispute between Nextdoor.com and Abhyanker relating to  
 6 Nextdoor.com's discovery requests which were outlined in the parties' December 5, 2013 Case  
 7 Management Conference Statement (Dkt. No. 131). Among other things, the Court directed  
 8 counsel for Nextdoor.com to provide counsel for Abhyanker with a list of factual representations  
 9 made by Abhyanker's counsel in various meet and confer letters, which Nextdoor.com wanted  
 10 Abhyanker to include in verified responses to Nextdoor.com's interrogatories. On December 20,  
 11 2013, Nextdoor.com's counsel provided a list of items responsive to those interrogatories and  
 12 directly relevant to the claims on which discovery is currently open. Because Abhyanker refuses  
 13 to provide that information on the ground of relevancy, this dispute remains unresolved. Thus,  
 14 the parties are currently preparing a joint discovery letter to the Court to address their  
 15 disagreement on this issue in greater detail.

16                   In addition, and as relevant to the issue of ownership of the FATDOOR mark and  
 17 purported interests in NEXTDOOR.COM, Nextdoor.com has requested that Abhyanker provide  
 18 documentation reflecting his standing, including documentation identifying what assets of the  
 19 former Fatdoor, Inc. (later renamed Center'd Corporation) were acquired by Google Inc. Despite  
 20 his representation that he has obtained historical records of Fatdoor/Center'd, Abhyanker has still  
 21 failed to provide this basic document critical to his claim that he acquired Fatdoor/Center'd's  
 22 trademarks and rights to sue on them. This issue is also being prepared for presentation to the  
 23 Court by letter.

24                   **Discovery Served by Abhyanker:** On November 14, 2013, Mr. Abhyanker served requests for  
 25 documents and admissions on Counterdefendants Sandeep Sood, Monsoon, and Benchmark  
 26 relating to his trade secret misappropriation claim. Counterdefendants Sood and Monsoon have  
 27 not substantively responded to Abhyanker's requests since the Court deemed "[d]iscovery on  
 28 trade secrets . . . deferred until dispositive motions are resolved." (Dkt. No. 137.) For the same

1 reason, among others, Benchmark objected to the requests on December 19, 2013.

2 On January 6, 2014, Abhyanker served Nextdoor.com with his first set of interrogatories  
 3 and first set of requests for production of documents. Nextdoor.com served its objections and  
 4 responses, including its initial document production, on February 10, 2014.

5  
 6 Dated: February 13, 2014

FENWICK & WEST LLP

7 By: /s/Jennifer L. Kelly  
 8 Jennifer L. Kelly

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24 Attorneys for Counterdefendants SANDEEP  
 25 SOOD and MONSOON ENTERPRISES, INC.

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 ATTORNEYS AT LAW  
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**1 ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1**

2 I, Jennifer L. Kelly, am the ECF User whose identification and password are being used to  
3 file this **Joint Status Report**. In compliance with Civil Local Rule 5-1, I hereby attest that all  
4 signatories have concurred in this filing.

5 Dated: February 13, 2014

6 */s/Jennifer L. Kelly*

7 Jennifer L. Kelly

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